

1
2
3
4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

6
7 JOSEPH DOWNING,
8 Plaintiff(s),

9 v.
10
11 OSVALDO FUMO, et al.,

12 Defendant(s).

Case No. 2:23-cv-00419-ART-NJK

13 **ORDER**

14 [Docket Nos. 5, 6]

15 Pending before the Court are Plaintiff's second application to proceed *in forma pauperis*,
16 Docket No. 5, and Plaintiff's third application to proceed *in forma pauperis*, Docket No. 6. Subject
17 to the conditions outlined below, the Court **GRANTS** the third application to proceed *in forma*
18 *pauperis* (Docket No. 6). As such, the Court **DENIES** as moot the second application to proceed
19 *in forma pauperis* (Docket No. 5).

20 Plaintiff must pay an initial partial filing fee of the greater of twenty percent of the average
21 monthly deposits or twenty percent of the average monthly balance of his account for the six
22 months immediately preceding the commencement of this action. *See* 28 U.S.C. § 1915(b)(1).
23 Plaintiff's average monthly balance is \$10.28, and his average monthly deposit is \$55.00. Docket
24 No. 6 at 4. Therefore, the Court finds that Plaintiff must pay an initial partial filing fee of \$11.00.
25

26 Accordingly, **IT IS ORDERED:**

27 1. Plaintiff's Application to Proceed *in Forma Pauperis* (Docket No. 1) without
28 having to prepay the full filing fee is **GRANTED**. However, Plaintiff must pay an initial
installment fee in the amount of \$11.00 toward the full filing fee of \$350. Plaintiff must have the
designated fee sent to the Clerk's Office no later than **July 20, 2023**. Failure to do so may result

1 in dismissal of this action. Furthermore, even if this action is dismissed, the full filing fee must
2 still be paid pursuant to 28 U.S.C. § 1915(b)(2).¹

3 2. Plaintiff is permitted to maintain this action to conclusion without the necessity of
4 prepayment of any additional fees or costs or the giving of security therefor. This Order granting
5 *informa pauperis* status shall not extend to the issuance and/or service of subpoenas at government
6 expense.

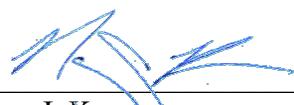
7 3. The Clerk's Office shall provide Plaintiff with two copies of this Order. Plaintiff
8 is ordered to make the necessary arrangements to have one copy of this Order attached to the check
9 in the amount of the designated fee.

10 4. The Clerk's Office shall send a copy of this Order to the attention of the inmate
11 accounts department at High Desert State Prison, P.O. Box 650, Indian Springs, Nevada 89070.
12 Pursuant to 28 U.S.C. § 1915(b)(2), Southern Desert Correctional Center shall forward to the Clerk
13 of the United States District Court, District of Nevada, twenty percent of the preceding month's
14 deposits to Plaintiff's inmate trust account (in the months that the account exceeds \$10.00) until
15 the full \$350 filing fee has been paid for this action.

16 5. The Clerk's Office shall provide a copy of this Order to the Finance Division of the
17 Clerk's Office.

18 IT IS SO ORDERED.

19 Dated: April 20, 2023

20 
21 Nancy J. Koppe
22 United States Magistrate Judge

23
24
25
26
27 ¹ After it has received the partial filing fee as ordered herein, the Court will screen
28 Plaintiff's complaint as required by 28 U.S.C. § 1915. Nothing in this order should be construed
as suggesting that the Court will allow any of Plaintiff's claims to proceed past the screening phase.